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ABSTRACT

The booklet is a greatly expanded and improved edition of a manual designed to provide New York State Board Members, Education Department staff, and others with information concerning New York State's governance of 31 licensed professions. It covers the duties, responsibilities, authority, and working relationships of the 20 State Boards and the 12 Executive Secretaries, who under the Board of Regents and the State Education Department govern these professions. Topics considered include Board membership, activities of the State Boards, and Executive Secretaries and State Board Offices. A chapter on Board administration covers such topics as meetings, bylaws, fiscal affairs, relations with professional organizations, communications, policy, liability, and the Professional Assistance Program. Guidelines for payment of honoraria are given in a separate chapter. Six appendixes provide information on the following: professional regulation in New York State, professions licensed or certified by the Board of Regents, alignment of responsibilities, composition of State Boards, functions of the State Board Offices, and the professional disciplinary process in New York. (DB)

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BOARDS FOR THE PROFESSIONS

A Statement of Background and Guidelines

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NEW YORK
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BOARDS FOR THE PROFESSIONS

A Statement of Background and Guidelines

The University of the State of New York
THE STATE EDUCATION DEPARTMENT
Office of the Professions
Albany, New York 12230
March 1990

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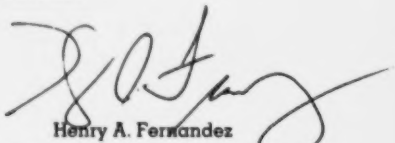
FOREWORD

The way in which New York governs the 31 licensed professions is quite different from the way most other states meet similar responsibilities. This booklet is intended to inform and guide State Board Members, Education Department staff, and other interested parties with respect to the functions and responsibilities of the State Boards, Board Members, and Board Executive Secretaries in New York. There is considerable variety among the 20 State Boards. The relationships between and among the State Boards, the Executive Secretaries, the Department, and the professions are equally varied and complex. Accordingly, this booklet cannot answer every question on the topics it introduces. There are, however, some fundamental truths which have been set forth. Some of these truths are matters of law, others of rule or regulation, and still others of policy, practical consideration, or common sense.

To the extent that this booklet provides helpful information, it is principally the result of two individuals' efforts. In 1979 Assistant Commissioner for the Professions, Frank C. Abbott, captured the essence of the State Boards and the Executive Secretaries when authoring the first edition of "Boards for the Professions." Daniel W. Szetela, Coordinator of Professional Education, updated and supplemented the booklet in 1986. Now, in 1990, he has given us a much improved and expanded third edition of what has become a very popular and helpful resource. The result of these efforts is a document which can serve as a key reference for State Boards and Department staff alike.

I am confident that you will find "Boards for the Professions" of interest now and on future occasions.



Henry A. Fernandez
Deputy Commissioner for the Professions

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I. INTRODUCTION

The State Boards for the 31 licensed professions function under statutory provisions and within a governmental structure defined in the Education Law. Comprehensive responsibility for the execution of that Law, and all the duties set forth within it, is vested within the Board of Regents and the Commissioner of Education. The Regents are the policy-making arm and the Commissioner is the executive arm of educational government and professional regulation in New York. A summary of the manner in which the professions are governed appears as Appendix A. The 31 professions and the year in which licensure began for each are listed in Appendix B. Vital roles in both policy and administration are vested by laws, rules, and regulations in various bodies and individuals who are subject to the ultimate direction and control of the Regents and Commissioner. For effective operation of the total system it is essential that all components understand what is expected of them and what means, including authority, they may draw upon in order to fulfill those expectations.

This document sets forth background and guidelines concerning the duties, responsibilities, authority, and working relationships of the 20 State Boards and the 12 Executive Secretaries who, under the aegis of the Board of Regents and the Department, assist in governing the 31 licensed professions. The alignment of the 12 Executive Secretaries, 20 State Boards, and 31 licensed professions is depicted in Appendix C.

The principal aims of this booklet are:

1. To delineate the functions, prerogatives, and responsibilities of the State Boards for the Professions;
2. To delineate the functions, prerogatives, and responsibilities of the Education Department officer whose title is Executive Secretary to the State Board(s); and
3. To provide an overview of how the Boards, the Executive Secretaries, and the Department interact.

State Boards for the Professions are expressly provided for in Education Law. General provisions are set forth in Section 6508. Provisions for each professional area are included in sections specific to each individual profession. The latter provisions establish that the Boards exist "...for the purpose of assisting the Board of Regents and the Department on matters of professional licensing and professional conduct in accordance with Section 6508 of this title."* Section 6508 provides in part:

1. *A board for each profession shall be appointed by the board of regents on the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing, practice, and conduct. The composition of each board shall be as prescribed in the article relating to each profession. Within each board a committee on licensing may be appointed by the board chairman.*
2. *Each board, or its committee on licensing, shall select or prepare examinations, may conduct oral and practical examinations and reexaminations, shall fix passing grades, and assist the department in other licensing matters as prescribed by the board of regents.*
3. *Each board shall conduct disciplinary proceedings as prescribed in this article and shall assist in other professional conduct matters as prescribed by the board of regents.*

Additional subdivisions of Section 6508 address membership terms, allowances for expenses connected with Board work, Board officers and their election, bylaws (which may be adopted "consistent with this title and approved by the Board of Regents"), and related matters.

* The only exception is medicine where the phrase "professional conduct" is not used (deleted in 1975).

II. BOARD MEMBERSHIP

The Education Law prescribes the minimum size and composition of each professional Board. Typically, Board Members must be licensees, except that every professional Board must have at least one (and in some cases two) "public representatives." The public member must be "a consumer of services" of the professions for which the Board has responsibility. Public members are full members of the Boards to which they are appointed. They may serve as officers of the Board and at least one public member must serve on every disciplinary hearing panel of the Board. Operationally, the Department makes no distinction between public members and members who are licensed.

Occasionally, Education Law includes specific provisions concerning the membership of a Board. Such provisions usually relate to the need for certain special knowledge or skills. For example, the Occupational Therapy Board must have at least one physician and one hospital administrator. The Massage Board must have at least three physicians. The Chiropractic Board must have one Doctor of Medicine, one Doctor of Osteopathy, and one person who holds a doctorate in the basic sciences. Many, but not all, of the statutes pertaining to individual professions require Board appointees to have at least five years of experience. Appendix D displays excerpts from each of the statutes establishing the 20 State Boards.

Board Members are appointed by the Regents upon recommendation of the Commissioner. The Commissioner's recommendation flows from intensive recruitment and screening efforts by the Office of the Professions and the Executive Secretary. Many factors must be considered in developing a recommendation for a Board appointment. Ensuring that the Boards are balanced and represent the broad spectrum of statewide interest is of great concern. Also of critical importance is the need for Boards to have appropriate expertise. For example, the Engineering Board, in order to meet its responsibilities

pertaining to the review of candidate experience, might need a member who is a civil engineer. In some instances, the need for special expertise may be the single most important factor in developing a recommendation for a Board appointment. Neither Education Law nor Regents practice reserves Board memberships for any particular group or organization. The criteria of quality and balance guide the Board Member selection process.

Because workload has grown since the enactment of most licensing laws, the Regents and the Department have increased the size of most Boards above the statutory minimum. A balance is always sought between a Board large enough to handle the work demands and small enough to be manageable (i.e., to assure open communications and to provide for cost effective operations).

Board Members are "public officers." Upon appointment they must sign an oath of office and are subject to selected provisions of Public Officer's Law. Most appointments are made for the full five-year term prescribed in Education Law, although an appointment for a shorter period may be made to complete the term of a Member who has left the Board. Regents practice has been to reappoint State Board Members seeking a second term if the incumbent has participated fully and constructively in the work of the Board.

III. ACTIVITIES OF THE STATE BOARDS

There are 20 State Boards that assist the Regents and the Department in governing the 31 licensed professions (see Appendix C). Some Boards have responsibility for more than one profession. For example, the Dental Board deals with both dentistry and dental hygiene. While all 20 Boards have the same general mission, described in Section I of this booklet, specific activities and emphases vary greatly from Board to Board.

Provisions governing the professions comprise almost one-fifth of Education Law. Furthermore, substantial portions of the Rules of the Board of Regents and the Regulations of the Commissioner of Education are dedicated to governing the professions. Hence, each profession has its own substantial body of statutes, rules, and regulations. Of equal importance, each profession has its own history and traditions which help shape the Board's activities. Regardless of method or areas of emphasis, however, all Board activities fall within the general categories described in Section 6508 of Education Law. Basically, Boards are responsible for assisting the Regents and the Department by:

- Selecting or developing appropriate licensing examinations;
- Reviewing, as appropriate, applications for licensure (this often involves assessing the experience of candidates);
- Conducting disciplinary hearings;** and
- Advising on issues of policy and practice.

** By law, the Medical Board's role in this area is restricted to conducting restoration hearings. At such hearings, physicians whose licenses were revoked by the Regents may seek to have their credentials restored. Hearings concerning the conduct of licensed physicians are held before the Health Department's Professional Medical Conduct Committee.

Some Boards may spend most of their time on issues related to licensing examinations; others may focus on experience reviews; still others may have a heavy responsibility in the area of discipline. For each day a Board Member provides services in support of the Department, he or she is entitled to a modest honorarium and reimbursement of allowable travel expenses. (Section VI of this booklet contains Guidelines for Payment of Honoraria.) During State fiscal year 1988-89 the nearly 300 members of the State Boards collectively provided almost 5,000 days of service in helping the Regents and the Department govern the licensed professions.

IV. EXECUTIVE SECRETARIES AND STATE BOARD OFFICES

Each State Board works with the Department through an Executive Secretary and a State Board Office. Currently, there are 12 Executive Secretaries to guide and assist the 20 Boards (some Executive Secretaries work with only one Board, some with two, and one with three).

Subdivision 7 of Section 6508 provides that "An executive secretary to each board shall be appointed by the board of regents on recommendation of the commissioner...." With respect to nine of the Boards, the Executive Secretary must be licensed in the profession: medicine, dentistry, pharmacy, nursing, engineering, architecture, public accountancy, psychology, and social work. Sections pertaining to other Boards do not include this requirement.

The Executive Secretary occupies an important position within the structure of the Education Department and within the informal "structure" of a profession. This dual role affords the Executive Secretary a great many opportunities for service, just as it creates a number of complex issues of authority and role. Those complexities arise from relationships with the Regents, the Department, and the State Board which, as noted earlier, exists as an advisor to the Regents and the Department. Complexities in relationships also arise from interaction with professional societies and educational institutions which are directly and significantly affected by policies and actions of the Regents, the Department, and the Boards.

Within a complex set of expectations, the Executive Secretary is first and foremost the agent of the Regents and the Department who employ him/her and at whose pleasure the Executive Secretary serves. The Executive Secretary executes functions of the Department relating to professional education, licensure, and conduct—important portions of which lie outside the purview of the State Boards. But the Executive Secretary is also the agent of the State Board, serving as the

official channel for communications to and from the Board and providing administrative services for the Board with respect to its meetings and its various other functions. Finally, the Executive Secretary is a link to professional groups outside the formal structure of the Regents, Department, and State Board. Such groups occupy positions of importance, and close working relationships with these groups are necessary and appropriate.

The State Board Offices are administered by the Executive Secretaries. The offices include as few as two full-time staff (including the Board Executive Secretary) and as many as eight full-time staff. Activities include support of the State Boards and many other duties for which the State Boards do not have responsibility. Functions of the State Board Offices are summarized in Appendix E.

V. BOARD ADMINISTRATION

To help assure that the many-sided duties and roles involved in governing the professions are carried out with a minimum of conflict, or lost motion, the Department has established the following guidelines for Board administration. These guidelines are intended to provide a structure for working relationships that will be both productive and constructive. The guidelines do not attempt to include all functions, policies, and procedures of the Regents and Department applicable to professional regulation. Questions about the guidelines, or questions not covered by the guidelines, should be raised by Board Members with their Executive Secretary.

A. Meetings

— *Location.* Board meetings must be held within New York State at a time and place acceptable to the Department. In recommending meeting locations Boards must be sensitive to issues of cost, public interest, and propriety.

— *Agenda.* A tentative agenda and papers relating to the tentative agenda should be sent to each Board Member in advance of each regular meeting.

The tentative agenda should be initiated by the Executive Secretary and reviewed with the Board chairperson prior to its distribution to the Board. At the opening of the Board meeting additional items may be added to the agenda as the Board deems necessary and appropriate.

— *Participation.* Regular participation of all Board Members is expected in the meetings of the Board. Members who may find it necessary to miss substantial numbers of meetings or who feel they can no longer contribute to the Board should discuss their circumstances with the chairperson and/or Executive Secretary. When a member can no longer fully participate in Board activities, resignation from the Board should be considered. Unofficial meetings of the Board or meetings of selected members (other than official committees), with or without

the Executive Secretary, are destructive of working relationships and are not authorized.

B. Bylaws

Bylaws may be established to guide the affairs of a State Board, provided that such bylaws are consistent with Title VIII of Education Law and have been approved by the Board of Regents. To help assure conformance with law, rules, and regulations, proposed bylaws should be developed by the Board in collaboration with the Executive Secretary.

C. Fiscal Affairs

— *Budget.* Ultimate responsibility for accomplishing the work of the Board within the fiscal resources available for the Board Office rests with the Executive Secretary and may not be delegated. A Board may advise the Executive Secretary and the Department of its views concerning fiscal requirements and priorities. In doing so, a Board should recognize that, as is the case with other units within the Department, needs are often greater than the amounts that the Commissioner and the Regents are able to request, and that the Department's requested budget is never fully funded by the Legislature. Moreover, all units within the Department operate, both in formulating budget requests and in administering appropriated funds, within constraints imposed by units outside the Department as well as constraints established by the Regents and Department. The Executive Secretary is required to be familiar with these constraints and, to the extent possible, accomplish the work of the Board and Board Office within them.

— *Expenses of Board Members.* The expenses that members incur in Board work are reimbursed subject to State rules and procedures which are established by the Office of the State Comptroller and apply not only to the State Boards but to a wide array of State advisory groups and committees. The Executive Secretary must review, approve, and submit for payment all Board Members' expense claims in a manner consistent with State and Departmental policies and procedures. Travel for which reimbursement is to be requested should not be undertaken without prior approval. This is especially true for out-of-State travel which is subject to additional restrictions.

In addition to reimbursement for certain expenses, Board Members are paid a modest honorarium for each day devoted to Board work—again subject to applicable policy and budget allocations. The Executive Secretary is responsible for reviewing and approving requests for honoraria. In the interest of equitable practice among the several Boards, guidelines for payment of honoraria have been developed and appear in Section VI of this booklet.

D. Board Functions: Examinations, Evaluation of Experience, and Discipline

The Boards, under Education Law, have important responsibilities relating to examinations, evaluation of candidate experience, and professional discipline. Each Board must develop and periodically evaluate appropriate policies to meet these responsibilities. The Executive Secretary is often expected to apply the Board's policies to specific cases and situations and to maintain necessary records and reports. Because of the interdependence of policy and administration, the Executive Secretary plays an important role in formulating proposals for Board policy as well as executing and evaluating such policies.

Although this booklet cannot provide detailed information on every area of Board responsibility, an overview of the disciplinary process is included as Appendix F. Experience shows that over one-fourth of the total number of days spent on Board work each year is committed to professional discipline.

E. Relations with Professional Organizations

In all professions, the responsibilities of the Regents and the Department, including the Boards, extend beyond the profession to the general public. Therefore, members of State Boards for the Professions must be mindful that service as officers or members of governing boards of professional associations may raise questions of conflict of interest. Board Members must take special precaution to avoid conflict of interest or appearance of conflict.

Effective communications among professional societies, State Boards, and the Department are essential to accomplishing common goals. Although there may be differences in

point of view, Board Members, Executive Secretaries, and other officers of the Department should endeavor to cooperate and maintain good working relationships with professional societies.

F. Relations with Professional Institutions and Programs

Evaluation and registration of educational programs in the professions and in related areas are major responsibilities of the Education Department. Although the Boards do not play a role in the actual registration of programs, State Boards may formulate proposals for educational requirements relevant to their respective professions. Such proposals should be developed in cooperation with the Executive Secretary and forwarded through the Executive Secretary for review and response by appropriate officers of the Department.

The Division of Professional Education Program Review has responsibility for superintending the program registration process. Executive Secretaries work in close cooperation with the Division helping to review proposals to establish new, or revise existing, programs. Department staff and consultants also conduct visits to institutions to periodically reevaluate programs for registration purposes.

In addition to working with the Division of Professional Education Program Review to assure that Department academic standards are met, the Executive Secretary also advises the Department on related matters including, but not limited to, minority access to the licensed professions, preprofessional educational requirements, and continuing professional education. The Executive Secretary also works closely with other Department officers in reviewing the performance of graduates of registered programs on Department-developed or approved licensing examinations.

G. Communications

Communications both to and from a Board are regularly made through the Executive Secretary, functioning as the agent of the Board. In certain situations, such as national meetings of state boards, the chairperson may also act as a spokesperson for the Board.

As entities of the Department, State Boards are subject to regular Departmental policies and procedures in issuing any

formal communication or public statement, or in providing testimony in legislative or other governmental hearings. The Executive Secretary serves as both a facilitator and checkpoint for such communications. No member of the Board or the Department should characterize a position as that of the Board or the Department unless it has been officially adopted as such. On the other hand, conveying or representing the official position of the Board or Department does not necessarily connote one's personal agreement with the position.

From time to time, a Board may need to direct a communication to officers of the Department or to the Board of Regents. Any such communication should be directed through the Executive Secretary who will forward the communication through appropriate channels to the intended recipient.

Concerns or problems of a Board can occasionally become obstacles to effective action. Board chairs are invited to contact the Deputy Commissioner concerning important matters which they feel have not been addressed satisfactorily, either by the Executive Secretary or by other officials of the Department. In the interest of sound administration, this invitation should not be viewed as establishing parallel or alternative procedures to those set forth elsewhere in this booklet. However, if serious and unresolvable problems arise, the Deputy Commissioner should be consulted.

One way to keep channels of communication open is to have officials of the Department and chairs of the Boards meet periodically to review items of mutual interest. The Advisory Council for the Professions comprises the chairs of the 20 State Boards and Executive Staff of the Office of the Professions. The Council meets twice annually at the call of the Deputy Commissioner. The major purposes of the Council are:

1. To provide information and opinions which will help the Boards do a better job;
2. To solicit information and opinions which will help the Department do a better job;
3. To receive advice/requests regarding items of concern to the Boards;

4. To provide information of general interest on major Departmental priorities outside the professions; and
5. To facilitate interchange between Boards.

H. Policy

A Board may provide the Department with its advice on any matter relating to professional licensure, practice, or conduct. Board recommendations should be directed through the Executive Secretary to the Department and then, if appropriate, to the Regents.

Actions of State Boards, including those involving policy recommendations, are subject to review and approval by both program and legal officers of the Department and the Regents. All actions are required to be consistent with Title VIII of Education Law. Consultation in advance of formal action minimizes the possibility of lost time and effort in such matters.

I. Liability

As mentioned earlier, members of the State Boards for the Professions are considered "public officers" and subject to pertinent provisions of Public Officers Law. Among other things, this means that Board Members are afforded certain protections if faced with legal challenges concerning actions taken while meeting their responsibilities pursuant to Education Law. For example, if a State Board Member were to be sued for actions taken in an official capacity as a Board Member, he/she would be provided legal defense by the State.

J. Special Requirements

By law, all meetings of a State Board are open to the public. Executive sessions may be called during a meeting only for very limited and specific purposes. In keeping with the spirit of open government, executive sessions should be called only when, and in the manner, provided for by law. The Executive Secretary is responsible for assuring strict compliance with requirements of the "open meeting law."

Minutes of all Board meetings are made available to the public upon request. Such minutes must record the vote of each Board Member on each motion upon which the Board takes formal action. Education Law provides that a Board may

not take an official action without an affirmative vote of a majority of the active membership of the Board. This makes attendance and participation at Board meetings particularly important.

K. Professional Assistance Program

The Office of the Professions administers a program which provides assistance, and an opportunity for rehabilitation, to licensed professionals impaired by alcohol and/or drugs. In administering the program, the Department is assisted by a Committee for Professional Assistance. Like one of the Boards for the Professions, the Committee works with a Department manager, the Coordinator of Professional Practice, who functions much like an Executive Secretary. While there are many differences between the Committee for Professional Assistance and one of the 20 State Boards, there are also many similarities. Members of the Committee should look to the Coordinator of Professional Practice for direction as to what items within this edition of "Boards for the Professions" are most relevant to them and the Professional Assistance Program.

Members of the 20 State Boards should know that when a panel of the Committee for Professional Assistance is formed to hear a licensee's proposal for rehabilitation, a representative of the State Board for the licensee's profession joins the panel as a member ex officio. Board members serving on such a panel help determine such things as: the extent of the licensee's problem, the need for assistance, the appropriateness of a proposed treatment program, the success of rehabilitative efforts, and the readiness to return to active practice. Although not addressed in statutory provisions pertaining to State Boards, this is an important function which should be considered part of a Board Member's responsibility on an "as needed" basis.

VI. GUIDELINES FOR PAYMENT OF HONORARIA (PER DIEMS)

In coordinating the work of the State Boards, the Executive Secretaries are responsible for approving payments of honoraria (per diems) to Board Members for the time they devote to the work of the Board. The following guidelines for per diem payments to Members of the State Boards represent **maximum** amounts in each category that may be approved by the Executive Secretary. Not all categories apply to each Board. Any deviation from these guidelines must be approved by the Office of the Deputy Commissioner for the Professions.

(1) Attendance at meetings of the entire Board, committees of the Board, hearing panels, and other meetings authorized by the Department: one per diem for each day of the meeting; up to one additional per diem may be approved by the Executive Secretary for purposes of travel when substantial additional time is necessitated because of travel distance or public transportation schedules.

(2) Writing examination questions, grading or regrading examination papers, and evaluating applications: paid for at the rate of $12 per hour of work required. (NOTE: Whenever possible, the Department prefers that such evaluations be made at regular meetings of the Board or of its committee(s).)

(3) Observation or administration of examinations: one per diem for each day of the activity, up to one additional per diem may be approved by the Executive Secretary for purposes of travel when substantial additional time is necessitated because of travel distance or public transportation schedules.

(4) Consultation with the Office of Professional Discipline or other appropriate units or officers of the Department: paid for at the rate of $12 per hour in instances where such consultation is both formal and requires a significant commitment of time on the Board Member's part.

APPENDICES

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APPENDIX A

OVERVIEW OF PROFESSIONAL REGULATION IN NEW YORK STATE

In New York the State Education Department, through its Office of the Professions, issues licenses and other authorizations for practice under Title VIII of the Education Law in 31 fields. These fields comprise virtually all of the areas of practice traditionally called professions except law, which is subject to regulation through the judiciary; theology, the practice of which is not subject to regulation by the State; and teaching, which is subject to a separate body of law and regulation.

The New York system of professional regulation is unique in placing a citizen body in charge of the education, licensure, and discipline of the professions. It is unique in providing for boards to *advise* the Commissioner and the Regents on all matters relating to licensure, practice, and discipline. The Boards, each aided by an Executive Secretary who the Regents appoint, are an invaluable resource in providing communication links to the professions and interested segments of the public. Unlike their counterparts in other states, the Boards do not make policy nor do they make final decisions on disciplinary issues — they make recommendations and provide advice to the Department and the Board of Regents.

Furthermore, bringing education, licensure, and discipline together provides a uniquely wide scope of authority. In New York State, the public gains not only in consistency of policy across the professions but also in accountability. It gains, too, in cost effectiveness made possible by centralizing data processing, examinations, and other licensing services, and the investigation and processing of professional discipline cases.

Members of the 20 State Boards for the Professions are appointed by the Board of Regents from among applicants and nominees who are recruited through wide-ranging efforts of the Department. To provide an essential linkage to professional issues and practice, the law provides that these advisory boards include a certain minimum number of licensed persons, residents of the State with professional experience in the

State; and in addition, one or more public members who are not to be connected with the professions except as consumers of the services provided by the profession concerned. From one Board to another, their services may range from a half dozen to 40 or more days each year.

Twelve Executive Secretaries carry out essential services for the Department and the Regents in all areas of education, licensure, and conduct in the 31 professions. All of them, except the Executive Secretary to the State Board of Pharmacy, administer at least two of the regulated professions. Nine of the 12 are required by law to be New York State licensed practitioners in specified fields. This requirement provides the Department and Regents with a source of informed and impartial advice on professional matters that often are esoteric and specialized at the same time that they may be of far-reaching importance in establishing policy.

APPENDIX B

PROFESSIONS LICENSED OR CERTIFIED BY THE BOARD OF REGENTS (INCLUDING YEAR FIRST LICENSE WAS ISSUED)

Profession	Year First License Was Issued	Applicable Articles of Education Law
Medicine	1892	130,131
Dentistry	1895	130,133
Veterinary Medicine	1895	130,135
Certified Public Accountancy	1896	130,149
Pharmacy	1901	130,137
Registered Professional Nursing	1903	130,139
Optometry	1909	130,143
Certified Shorthand Reporting	1913	130,151
Podiatry	1913	130,141
Architecture	1916	130,147
Dental Hygiene	1917	130,133
Professional Engineering	1921	130,145
Land Surveying	1921	130,145
Physical Therapy	1926	130,136
Licensed Practical Nursing	1938	130,139
Ophthalmic Dispensing	1947	130,144
Psychology	1957	130,153
Public Accountancy	1959	130,149
Landscape Architecture	1961	130,148
Chiropractic	1963	130,132
Social Work	1966	130,154
Massage	1968	130,155
Physician's Assistant	1972	130,131-B
Specialist's Assistant	1975	130,131-B
Speech-Language Pathology	1976	130,159
Audiology	1976	130,159
Occupational Therapy	1976	130,156
Acupuncture	1976	130,131
Occupational Therapy Assistant	1977	130,156
Animal Health Technology	1978	130,135
Physical Therapist Assistant	1981	130,136

APPENDIX C

ALIGNMENT OF RESPONSIBILITIES (AS OF MARCH 1990)

The 12 Executive Secretaries	→ The 20 State Boards	→ The 31 Licensed Professions
– Lewis H. Clarke	– Optometry – Veterinary Medicine	– Optometry – Animal Health Technology – Veterinary Medicine
– Ann R. Eldridge	– Podiatry – Speech-Language Pathology and Audiology	– Podiatry – Audiology – Speech-Language Pathology
– Douglas C. Hasbrouck	– Engineering and Land Surveying	– Engineering – Land Surveying
– Rita Madrazo-Peterson	– Massage – Psychology	– Massage – Psychology
– Douglas R. Martin	– Certified Shorthand Reporting – Public Accountancy	– Certified Shorthand Reporting – Certified Public Accountancy – Public Accountancy
– William Martin	– Architecture – Landscape Architecture	– Architecture – Landscape Architecture
– Milene A. Megel	– Nursing	– Licensed Practical Nursing – Registered Professional Nursing

The 12 Executive Secretaries	→ The 20 State Boards	→ The 31 Licensed Professions
– Lawrence H. Mokhiber	– Pharmacy	– Pharmacy
– Thomas J. Monahan	– Medicine	– Acupuncture – Medicine – Physician's Assistant – Specialist's Assistant
– Martin A. Rubin	– Dentistry	– Dental Hygiene – Dentistry
– William C. Sippel	– Occupational Therapy	– Occupational Therapy – Occupational Therapy Assistant
	– Ophthalmic Dispensing	– Ophthalmic Dispensing
	– Physical Therapy	– Physical Therapist Assistant – Physical Therapy
– Vincent J. Wallace	– Chiropractic – Social Work	– Chiropractic – Social Work

COMPOSITION OF STATE BOARDS
(Excerpts from Education Law)

6523. State board for medicine

"...The board shall be composed of not less than twenty physicians licensed in this state for at least five years, two of whom shall be doctors of osteopathy...."

6553. State board for chiropractic

"...The board shall be composed of not less than seven members, including at least four licensed chiropractors, one licensed physician who is a doctor of medicine, one licensed physician who is a doctor of osteopathy, and one educator who holds a doctorate or equivalent degree in either anatomy, physiology, pathology, chemistry or microbiology...."

6603. State board for dentistry

"...The board shall be composed of not less than thirteen dentists licensed in this state for at least five years and two dental hygienists licensed in this state for at least five years...."

6703. State board for veterinary medicine

"...The board shall be composed of not less than seven veterinarians licensed in the state and not more than two animal health technicians licensed in the state...."

6733. State board for physical therapy

"...The board shall be composed of not less than eight licensed physical therapists and not less than one public representative...."

6804. State board of pharmacy

"...The board shall be composed of not less than nine pharmacists licensed in this state for at least five years...."

6904. State board for nursing

"...The board shall be composed of not less than fifteen members, eleven of whom shall be registered professional nurses and four of whom shall be licensed practical nurses all licensed and practicing in this state for at least five years...."

7003. State board for podiatry

"...The board shall be composed of not less than seven podiatrists licensed in this state...."

7103. State board for optometry

"...The board shall be composed of not less than seven optometrists who shall have been residents of this state engaged in the practice of optometry for at least five years in this state...."

7123. State board for ophthalmic dispensing

"...The board shall be composed of not less than seven licensed ophthalmic dispensers who shall have been residents of this state engaged in the practice of ophthalmic dispensing for at least five years in this state...."

7205. State board for engineering and land surveying

"...The board shall be composed of not less than seven professional engineers and not less than two land surveyors licensed in this state...."

7303. State board for architecture

"...The board shall be composed of not less than seven architects licensed in this state...."

7323. State board for landscape architecture

"...The board shall be composed of not less than seven landscape architects licensed in this state...."

7403. State board for public accountancy

"...The board shall be composed of not less than twenty licensed accountants, not less than fifteen of whom shall be licensed as certified public accountants in this state, and the board should be kept in such proportion if it is ever increased...."

7503. State board for certified shorthand reporting

"...The board shall be composed of not less than five shorthand reporters licensed in this state...."

7602. State board for psychology

"...The board shall be composed of not less than eleven psychologists licensed in this state...."

7703. State board for social work

"...The board shall be composed of not less than seven certified social workers licensed in this state...."

7803. State board for massage

"...The board shall be composed of not less than seven persons, four of whom shall have been engaged in the teaching, research, or practice of massage for at least three years. The remaining three members of the board shall be physicians licensed in this state...."

7903. State board for occupational therapy

"...The board shall be composed of not less than seven licensed occupational therapists, and two additional members who shall include one physician and one member who is primarily and actively engaged in hospital administration...."

8205. State board for speech-language pathology and audiology

"...The board shall consist of not less than seven members, three of whom shall be audiologists and four of whom shall be speech-language pathologists. Each speech-language pathologist and audiologist on the board shall be licensed and have practiced in this state for at least five years,...."

FUNCTIONS OF THE STATE BOARD OFFICES

Administration and Grading of Examinations

All Boards are involved, albeit to different degrees, in the administration and grading of examinations. In some cases this is done entirely within the Department, with the assistance of Board Members and per diem consultants. In other instances staff and Board Members may participate in testing activities at the regional and national level.

Assistance in Investigations

State Board Members provide expert opinions to the Office of Professional Discipline (OPD) investigators concerning cases under review. Case closings on matters involving professional expertise also require the involvement of the State Boards.

Disciplinary Hearings

Disciplinary hearing panels and moral character screening panels are composed entirely of Board Members and are arranged by the Executive Secretary and staff. Staff and Board Members alike are involved in the disciplinary process in a variety of ways.

Educational Program Review

Staff and per diem consultants, as needed, are responsible for working with the Division of Professional Education Program Review (PEPR) in carrying out the educational program review function. This may entail reviewing proposals to register new academic programs and to modify existing registered curricula; participating in reregistration visits to evaluate existing programs; and helping to prepare special items for Regents action, such as charter petitions and master plan amendments.

Establishing a Pass Point and Processing Challenges

With the assistance of the Bureau of Professional Examination Development and Assessment (PEDA), each Board is responsible for recommending a pass point for each examination. Staff and Board Members must respond to various

requests from candidates who fail to achieve a passing score. Such requests may be for rescoring or reviewing an examination. Requests may also involve an appeal of specific questions.

Illegal Practice

Questions as to what constitutes illegal practice and complaints about illegal practice generally require involvement of the State Board Office. Open communications with the Office of Professional Discipline, the Office of Counsel, and interested groups must be maintained.

Law Suits and Legal Challenges

Applicants are increasingly litigious in their dealings with the Department, sometimes being represented by counsel from their first moment of contact with a State Board Office. The Office of the Professions also faces an increasing number of law suits concerning its determinations. The need has never been greater for actions to be logical, reasonable, and explainable.

Legislative Issues

Both staff and Board Members are involved in legislative issues: a) generating proposals for inclusion in the Regents legislative package, b) evaluating and recommending positions concerning proposals made to the Regents at their annual legislative conference, and c) reviewing and commenting on hundred of bills each legislative session.

Preparation and/or Selection of Licensing Examinations

With the assistance of the Bureau of Professional Examination Development and Assessment, each Board is responsible for either preparing licensing examinations or selecting appropriate testing instruments which may be purchased or recognized by the Department. Even when national examinations are purchased, staff and the Boards bear responsibility for participating in the development of such tests and for evaluating their appropriateness to New York State.

Public Information

Staff and Board Members have a great responsibility in the area of public information. Activities include answering literally hundreds of questions received each week by telephone

and mail from applicants or would-be applicants. Also important are presentations by Board Members designed to inform the public or particular groups on an array of topics, such as licensure, practice, or discipline.

Regulations and Standards

State Board Offices are responsible for continuous review and evaluation of standards for entry into professional practice and for practice itself. Such reviews may result in revised regulations or in joint efforts with counsel to develop opinions which clarify long-established requirements in light of present day circumstances.

Relations with Other Agencies

Each Board Office is responsible for providing advice, information, and assistance to other agencies at all levels of government which have an interest or concern regarding the profession(s).

Relations with Professional Organizations

All Board Offices must maintain good relationships with local, State, and national professional organizations. Information gained and given is part of the dynamic process of professional regulation.

Review of Applications for Licensure

Staff and the State Boards often must review applications for licensure. In some professions this involves assessing experience. In other instances a review of out-of-State credentials might be needed. For some professions approval is required in advance before training or an internship can be undertaken. While the specific requirements vary from profession to profession, review of applications for licensure is a complex and central task.

Scope of Practice Issues

Many of the most intense and complex problems facing the professions relate to scope of practice questions. Such questions are particularly difficult to address when more than one profession is involved. From time to time the Coordinator of Professional Practice must be called upon to analyze and recommend action concerning scope of practice issues. In some instances it may even be necessary to convene a joint practice

committee from two or more Boards in order to study and resolve critical issues.

Special Approvals

Various State Board Offices administer special provisions relating to unique approvals, such as the registration of drug manufacturers or the certification of dentists to use general anesthesia. Often these areas of special activity represent work which in quantity and character equate to an additional profession.

THE PROFESSIONAL DISCIPLINARY PROCESS IN NEW YORK

OVERVIEW

In New York State, professional misconduct in the licensed professions (except medicine) is investigated and prosecuted by the Office of Professional Discipline (OPD) of the New York State Education Department. Misconduct by physicians, physician's assistants and specialist's assistants is investigated and prosecuted by the Office of Professional Medical Conduct (OPMC) of the Department of Health. The Board of Regents, which has responsibility for licensure in the professions, also is responsible for the final disposition of all disciplinary matters, including medical cases. Penalties assessed by the Regents are against the individual as a licensee.

INVESTIGATION OF MISCONDUCT

Information concerning possible professional misconduct may come to the attention of the Office of Professional Discipline in a number of ways. Some examples include: a complaint from the general public about incompetent treatment; notification by an insurance carrier of billing irregularities; a professional competitor complaining about improper advertising; a newspaper article on the arrest of a nurse; notification by the Special State Prosecutor for Medicaid Fraud of a criminal conviction. There are many other sources as well, some required by law to report to OPD and others reporting as a result of cooperative relationships established over time. No matter the source, a case is opened whenever the information appears to concern one of the professions in OPD's jurisdiction. OPD errs on the side of opening cases and investigating complaints of questionable jurisdiction. The complainant is notified, and the investigation proceeds under the guidance of a supervising investigator.

Occasionally, the preliminary investigation concludes that the complaint involves a professional who is not in OPD's jurisdiction. When this occurs, the matter is referred to another agency, if appropriate, and the case is closed. Cases are also

closed if the investigation finds that, although the professional does come under OPD's jurisdiction, the complaint does not concern conduct defined as professional misconduct. An example of this might be a fee dispute.

However, because gross negligence or incompetence on one occasion is defined as misconduct, but simple negligence or incompetence on one occasion is not, reaching a conclusion in some cases is more involved. A complaint of incompetent treatment by a dentist typically requires the investigator to solicit the opinion of a paid consultant. OPD's consultant, who would be a licensed dentist, would review records and other pertinent data, perhaps examine the complainant, and offer advice as to the nature of the work performed. Determination of the appropriateness of professional judgments by the accused are not made in a vacuum by the investigator. One object of an investigation is to determine if the alleged conduct fits the legal definition of professional misconduct.

The outcome of other investigations may hinge on developing evidence of fraud, sexual abuse, or other types of misconduct. Such cases may only be advanced if evidence legally sufficient to support a charge of misconduct is found.

At any stage in the investigative process, cases may be closed only upon the recommendation of the supervising investigator and with the concurrence of the Director of Investigations.

REFERRAL FOR PROSECUTION

If the investigation concludes that misconduct has occurred and that the evidence is sufficient to proceed, a discussion between the investigator and a member of OPD's Prosecution Division will take place. The prosecutor may concur that the case should go forward, may offer advice concerning additional evidence needed to proceed successfully, or may conclude that the case should be closed after all.

Following this discussion, a consultation with the applicable State Board will take place. If the case involves professional expertise, as in the dentistry case described above, three members will be consulted. If a majority agrees that misconduct has occurred, the case proceeds. If no professional

expertise is involved, as in a criminal conviction case where the misconduct is simply that the licensee has been convicted of a crime, one member of the Board will be consulted. The concurrence of this one member is not required in order to proceed.

After these steps have been taken, the investigation is reviewed finally by the supervising investigator, a Deputy Director of Investigations, and the Director of Investigations. Only after these reviews is the case forwarded to the Executive Director of OPD for further action. When reviewing the results of investigations to determine what action to take, if any, the Executive Director is acting, pursuant to Section 6510 of the Education Law, as the Professional Conduct Officer (PCO). The Prosecution Division is instructed by the PCO to take specific action in each case, depending on the type of case. The action taken by the Prosecution Division is more fully explained in the next section.

PROSECUTION DIVISION ACTIVITY

1. Administrative Warning

If the alleged misconduct is minor or technical in nature, the Prosecution Division will be instructed to prepare an Administrative Warning (AW), which will be sent to the licensee by the Executive Director. An Administrative Warning is simply the expressed opinion of the Professional Conduct Officer that there is substantial evidence of misconduct and that, if the misconduct reoccurs, further action may be taken. It is not an adjudication of guilt, and the AW is completely confidential pursuant to law. It is not available to even the person who made the original complaint. Administrative Warnings are reserved for the least serious misconduct, such as first-time advertising violations or failure to wear name badges, when required.

2. Violations Committee Proceedings

Somewhat more serious, but still minor or technical, violations may be forwarded for Violations Committee proceedings. Typical Violations Committee cases might involve pharmacy inspections where several violations of rules governing the operation of a registered pharmacy were found, or a second

case of failure to return records. Violations Committee proceedings can go forward only if the licensee agrees not to contest the charges. The licensee appears before a five-member panel of the applicable State Board, one of whom must be a public member of any State Board, to argue only in mitigation of the penalty. The panel may impose a fine of up to $500 and/or a Censure and Reprimand for each specification. The matter does not advance to the full Board of Regents. If the licensee wishes to contest the charges, the case is rerouted for full disciplinary proceedings leading to a Board of Regents decision.

3. Full Charges - Hearing Panel

More serious misconduct is referred for full disciplinary proceedings leading to final disposition by the Board of Regents. The Board may impose penalties ranging from a Censure and Reprimand to revocation of license, and a fine of up to $10,000 for each specification. A hearing is scheduled before a five-member panel of the applicable State Board, at least one of whom must be a public member (the public member of the panel may be a member of any State Board). Charges are prepared and must be served upon the respondent at least 20 days before the date of the hearing. Respondents may be represented by counsel and are advised of the seriousness of the proceedings. A member of the Legal Services Division of OPD sits with the panel as Administrative Officer, acting as legal adviser to the panel and making rulings on points of law. A stenographic record of the hearing is made and becomes part of the record.

The Administrative Officer also assists in the deliberations of the panel (but has no vote) and drafts the panel's report. The report includes the findings of fact, conclusions as to the guilt of the respondent in regard to each specification of the charges, and the panel's recommendation as to an appropriate penalty. Guilt on each specification must be by vote of at least four members of the panel.

The report of the hearing panel is sent to both sides, and the case is scheduled by the Legal Services Division for consideration by a Regents Review Committee (RRC). The RRC is comprised of at least one sitting Regent and two other members,

typically former Regents or former judges. Argument before the RRC is in the nature of appellate argument: briefs may be submitted in advance and both sides appear personally. No stenographic record is made of the arguments before the RRC. An attorney from the Legal Services Division prepares a report of the findings and recommendations of the RRC. This report is forwarded to the full Board of Regents for consideration.

4. Full Charges - Direct Referral to Regents Review Committee

Conviction of a crime, a finding of guilt in a professional misconduct proceeding in another state, and a finding of guilt by the Commissioner of Health in an Article 33 drug-related matter, are all defined as "professional misconduct" in Section 6509 of the Education Law. If a case involves any of these allegations, the Professional Conduct Officer will instruct the Prosecution Division to process the case directly to the Regents Review Committee. Charges are prepared and served, but instead of a hearing before a five-member panel, direct referral proceedings are conducted before a meeting of the RRC. The hearing panel stage is eliminated. The RRC hears arguments and testimony concerning the penalty to be imposed but will not permit relitigation of the facts underlying the prior finding. In direct referral cases, a stenographic record of the RRC proceedings is made.

As in hearing panel cases discussed above, a report of the RRC is prepared and forwarded to the Board of Regents.

5. Consent Orders

Whether a case has been referred for a hearing or for direct referral to the Regents Review Committee, in virtually every case the Prosecution Division attempts to reach a negotiated settlement, called a Consent Order. Internal guidelines require that the settlement must be appropriate to the misconduct and that the respondent must admit to the most serious allegation. Applications for Consent Orders must be approved and executed by the respondent, the Executive Director of OPD, a State Board Member, and a Regent (in pharmacy cases, the Executive Secretary of the State Board must also approve) before being calendared to the Board of Regents. The application is not binding on the Board, which may accept or reject the proposed application as it deems appropriate.

6. Summary Suspension

In addition to the routine processing of disciplinary matters as described above, the law provides for summary suspension by the Regents of a licensee who poses an imminent threat to the public health, safety, or welfare. The summary suspension proceeding takes place before one Regent and entails oral argument and submission of papers. The Regent makes a recommendation to the full Board at its next meeting, which decides if summary suspension is warranted. If a licensee is summarily suspended, OPD must advance the full disciplinary proceeding as expeditiously as possible.

BOARD OF REGENTS PROCEEDINGS

Disciplinary cases are calendared to the Board of Regents and considered at each meeting, first by the Professional Practice Committee and then by the full Board. Decisions are based solely on the record made below; personal appearances are not permitted and no additions to the record may be made. The Regents may decline to decide a case on the record as it stands, and may remand a case for further consideration below, withholding decision until an amended record is available. The Regents may overturn a finding of guilt by a hearing panel, but may not set aside a not guilty finding.

A formal vote of the Board of Regents incorporates the decision in each case, whether the Board is revoking a license or finding the respondent not guilty. An Order of the Commissioner of Education implementing the vote of the Regents is served upon the respondent, and the case is forwarded to the Investigation Division for enforcement. Licenses and registrations are collected if the Regents have revoked or suspended a practitioner, terms of probation are monitored, and fines are collected.

POSTDISCIPLINARY PROCEEDINGS

1. Court Appeal

Decisions of the Regents constitute administrative determinations and may be appealed in Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules. Decisions of the court in these matters have at times modified the disciplinary process in meaningful ways in the public interest.

2. Application for Reconsideration

Respondents may apply to the Executive Director of OPD to have the Board of Regents reconsider its decision in light of an error of law or new facts which were not available at the time the case was originally adjudicated. If the Executive Director does not find such errors or new evidence, the case will not be advanced to the Regents for reconsideration.

3. Violation of Probation

The Regents will frequently suspend a license, but stay the suspension and place the practitioner on probation. If the subject violates a term of probation, the suspension does not take effect. Instead, a new disciplinary proceeding must be instituted charging violation of probation as the misconduct. Nonetheless, the procedure for bringing a violation of probation case is designed to expedite these cases to the Regents. The Professional Conduct Officer, after determining that there has been a violation of probation, refers the matter to the Prosecution Division. Charges must be served; and the respondent is given an opportunity to appear with counsel. However, only one Regent, or a nonRegent panel member designated for this purpose, hears the case and makes a recommendation to the full Board of Regents. A hearing panel will not be convened, nor will the matter be heard before a full three-member Regents Review Committee.

4. Application for Restoration of a Revoked License

One year after the effective date of the Commissioner's Order revoking a license, an application for restoration may be made. An investigation into the applicant's activities during the period of revocation is conducted and the case is forwarded to the Prosecution Division for presentation to a panel of five members of the applicable State Board. The prosecuting attorney prepares a package of materials, typically including the actual application and the report of the investigation. This package is sent to the panel members and to the applicant in advance of the restoration hearing.

At the hearing, the applicant may be represented by counsel. The results of OPD's investigation are presented by the prosecutor, who may or may not take a position regarding restoration. The proceeding is designed to allow the applicant a full

opportunity to demonstrate remorse, rehabilitation, and remediation, and to allow OPD an opportunity to question, when appropriate, the applicant's fitness to return to practice. A Legal Services attorney is present to offer advice to the panel and writes the panel's report, but is not acting formally as an Administrative Officer. No stenographic record is made of the proceedings.

The panel's report is forwarded to a body called the Committee on the Professions (COP), which is chaired by the Deputy Commissioner for the Professions and comprised of members of the Education Department of Assistant Commissioner rank or above. The COP reviews the record and makes a recommendation to the Board of Regents, which decides whether to grant the application and, if granted, under what conditions.

DISCIPLINARY PROCEEDINGS IN MEDICAL CASES

Prior to 1975 the investigation of misconduct in all professions except pharmacy was the responsibility of the Education Department's Division of Professional Conduct (DPC). If, following an investigation, the Director of DPC believed there was substantial evidence of misconduct, the case was presented to a three-member screening panel drawn from the State Board for the applicable profession. If this screening panel voted charges, the matter was referred to the Education Bureau of the Department of Law for prosecution before a five-member panel of the State Board. Following prosecution, cases were forwarded to the Regents Review Committee and the Board of Regents for further consideration and final disposition.

In 1975 the responsibility for investigating misconduct in the medical professions (physicians, physician's assistants, specialist's assistants) was statutorily transferred to a new Board for Professional Medical Conduct (BPMC) in the Department of Health. The Office of Professional Medical Conduct was established to carry out these investigations. This gave the BPMC an operational role in the actual investigation of misconduct. In addition, the BPMC was given the responsibility of voting charges in much the same fashion as charges were voted by screening panels in the Education Department. Initially, the prosecution of all professional misconduct remained with the

Attorney General's Education Bureau. However, the Commissioner of Health was given an opportunity to review the prosecution record and make his own recommendation, which would be included when the case was considered by the RRC and the Regents.

In 1980 responsibility for prosecuting professional misconduct was removed from the Department of Law and transferred to OPD, and to OPMC in medical cases. The Executive Director of OPD was given authority to prefer charges based on the results of his own investigations, and the role of the State Boards became, for the most part, advisory. A similar change was not introduced in the Health Department, however. The Board for Professional Medical Conduct continued to vote charges and continued to exercise an operational role at every stage in the investigation process. In 1980 the direct referral procedure was introduced for the professions under OPD's jurisdiction.

There have since been further modifications in the professional discipline system as it applies to medicine. The Commissioner of Health was given independent authority to summarily suspend a physician pending the outcome of a disciplinary proceeding. The direct referral procedure was made available in medical cases, and the class of cases eligible for direct referral in medicine was larger than for the other professions. The size of hearing panels in medical cases was reduced from five to three. Unlike the other professions, the Regents may overturn a not guilty finding by the hearing panel in medical cases. The authority of the Director of the Office of Professional Medical Conduct was expanded, although the BPMC still plays a very significant role in deciding which cases are prosecuted.

Terms of probation imposed by the Regents in medical cases are now monitored by OPMC, instead of OPD. And, completely outside of the Regents jurisdiction, the Commissioner of Health is authorized to order the monitoring of a physician's practice for up to one year if there is reasonable cause to believe that the physician cannot practice in a manner consistent with the public health, safety, and welfare. This process may apply where there is insufficient evidence to pursue formal misconduct proceedings.

PARALLEL PROCEEDINGS RELATED TO, BUT NOT BINDING ON, THE PROFESSIONAL DISCIPLINE PROCESS

The professional disciplinary process in New York is distinct from other processes which may also involve the investigation and disposition of allegations of wrongdoing by licensed professionals. Collective bargaining agreements in the private and public sectors, for example, codify employee disciplinary procedures for acts which may also form the basis for separate professional disciplinary proceedings.

Statewide employee disciplinary procedures are contained in Section 75 of the Civil Service Law and Article 33 of the collective bargaining agreement between the State of New York and the Professional Employees Federation or the Civil Service Employees Association. Negotiated agreements at the county and local levels also include provisions for employee discipline that parallel, but do not replace, the professional disciplinary process. Criminal proceedings may also parallel the professional disciplinary process, but do not replace it. These distinctions are important to keep in mind.